

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

EDWARD C. SNUKIS, JR. and)
SAMANTHA SNUKIS, Co-Administrators)
of the Estate of Edward C. Snukis,)
Plaintiffs,)

V.

CITY OF EVANSVILLE, INDIANA; *et al.*)
Defendants.)

CASE NO. 3:21-cv-00135-MPB-MJD

DEFENDANTS' STATEMENT OF DEFENSES

Defendants, by counsel, respectfully submit their Statement of Defenses, as follows:

1. **Failure to State a Claim Upon Which Relief Can Be Granted** – Plaintiffs fail to state a claim upon which relief can be granted, in part, because Defendants’ actions were objectively reasonable under the facts and circumstances known to them and not in violation of any law.

2. **State Tort Claim Immunity** – With respect to Plaintiffs’ state tort claims, Defendants’ liability is limited pursuant to the Indiana Tort Claims Act. I.C. § 34-13-3-1, *et seq.*

3. **Contributory Negligence** - Plaintiffs are barred from recovering damages to the extent such damages were the proximate result of contributory negligence.

4. **No Respondeat Superior Liability** – There is no respondeat superior liability for claims arising under 42 U.S.C. § 1983.

5. **Qualified Immunity** – Defendants acted in good faith within the scope of law enforcement authority and with objective reasonableness in light of the circumstances presented, did not violated a clearly established constitutional right, and are entitled to qualified immunity.

6. **No Punitive Damages against the City** – Plaintiffs may not recover punitive damages against any government entity and no basis for punitive damages exists against Defendants.

7. **Reasonable Force** - The use of force was justified and reasonable in light of the circumstances.

8. **Officers' State Law Immunity** – Plaintiffs may not recover damages on any state law claims against the individual Defendants for the acts committed within the scope of their employment.

9. Defendants reserve the right to raise additional defenses.

Respectfully submitted,

s/ Clifford R. Whitehead

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CERTIFICATE OF SERVICE

I certify that on the 28th day of April, 2023, a copy of the foregoing was filed electronically. Notice of this filing will be sent to the all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Clifford R. Whitehead

Clifford R. Whitehead